

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

In re:

Case No. 13-21977

MICHAEL B. WHITE and
DARLA K. WHITE,

Chapter 7

Debtors.

Honorable Daniel S. Opperman

ORDER GRANTING UNITED STATES DEPARTMENT OF EDUCATION'S MOTION TO
SET ASIDE ORDER REGARDING DEBTOR'S OMNIBUS OBJECTION TO PROOF OF
CLAIMS AS TO PROOF OF CLAIM NO. 5 ONLY
(DOCKET NO. 925)

On April 18, 2017, the Court entered an Order Granting Debtor's Omnibus Objection To Proof of Claims. One of the Proof of Claims was that of the United States Department of Education, Claim No. 5. The Department of Education files the instant Motion to set aside that Order as it pertains to it only, asserting that service upon it was not proper under Federal Rule of Bankruptcy Procedure 7004(b) as Debtor did not serve the claim objection upon the address "readily available on the Court's website."

Federal Rule of Civil Procedure 60(b)(4), incorporated by Federal Rule of Bankruptcy Procedure 9024, provides that, "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: . . . the judgment is void."

"A judgment is void under 60(b)(4) if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law." *Antoine v. Atlas Turner, Inc.*, 66 F.3d 105, 108 (6th Cir. 1995) (internal quotation marks and citation omitted).

The Court finds that pursuant to Rule 60(b)(4), the Court's April 18, 2017 Order should be set aside as to the Department of Education's Proof of Claim No. 5 because service upon it was not proper as provided in Rule 7004(b)(4) and (5) and the address readily available on the Court's website.

ACCORDINGLY, IT IS HEREBY ORDERED that the Motion of the U.S. Department of Education To Set Aside the Court's April 18, 2017 Order is SET ASIDE as to Proof of Claim No. 5 only.

Signed on September 30, 2020



/s/ Daniel S. Opperman

Daniel S. Opperman
United States Bankruptcy Judge